

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
JULY 14, 2003
COUNCIL CHAMBERS
6:30 P.M.

CALL TO ORDER

Mayor Kearsley called the meeting to order at 6:32 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Ken Kearsley, Mayor Pro Tem Sharon Barovsky, Councilmembers Joan House, Jeffrey Jennings and Andrew Stern.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Julia James, Administrative Services Director; Barbara Cameron, Grants Consultant; Ed Knight, Interim Planning Manager; Claudio Sanchez, Interim City Engineer; Kim Collins-Nillson, Project Manager; and Lisa Pope, City Clerk

FLAG SALUTE

Ron Rocco led the Pledge of Allegiance.

CLOSED SESSION REPORT

Public Comment on Closed Session Items

None.

City Attorney Hogin reported that the Council met in Closed Session at 5:30 p.m. to discuss the following items:

Existing litigation per Government Code Section 54956.9 (a):

1. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
2. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
3. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)
Los Angeles County Superior Court Case No. SS011355
4. City of Malibu v. California Coastal Commission (AB988 / LCP)
Los Angeles County Superior Court Case No. SC074641
Related cases (city named as a party in interest):
 - a. Rick Appel v. California Coastal Commission
Case No. SC074658

- b. Ralph Herzig v. California Coastal Commission
Case No. SS011382
- c. Land Use Preservation v. California Coastal Commission
Case No. SS011388
- d. Riverview Farm Associates v. California Coastal Commission
Case No. SS011383
- e. Brian Sweeney v. California Coastal Commission
Case No. SS011387
- f. Trancas-PCH v. California Coastal Commission
Case No. SC074640
- g. Tuna Ridge v. California Coastal Commission
Case No. SC011381
- h. Land Use Preservation Defense Fund v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011388
- 5. City of Malibu, et al. v. County of Ventura, et al. (Ahmanson Ranch)
Ventura County Superior Court Case No. CIV 216938
- 6. City of Malibu / Geffen v. Access for All / Coastal Commission et al
Los Angeles County Superior Court Case No. BC277034
- 7. United States of America ex rel. Darian v. Accent Builders inc. et al.
United States District Court Case No. 00-10255-FMC(JWJx)
- 8. Malibu Township Council v. City of Malibu II (28-car garage)
Los Angeles County Superior Court Case No. BS079965
- 9. Marine Forest Society v. California Coastal Commission Case No. 00AS00567
(Sacramento Superior Court) (Amicus)
- 10. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
- 11. Silver v. City of Malibu
Los Angeles County Superior Court Case No. BS081960
- 12. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
- 13. Sweeney et al v. City of Malibu
Los Angeles County Superior Court Case No. SS011602
- 14. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
- 15. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794
- 16. City of Arcadia, et al. v. Regional Water Quality Board, et al.
Los Angeles County Superior Court Case Nos. BS080807, BS080548, SO80753,
BS080758, BS080791

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

- 17. Number of Cases: 2

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

18. Property APN: 4458-021-005 and 4458-022-012
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Tom Fitzpatrick
Under Negotiation: Price and terms of payment
19. Property APN: 4458-018-002, 018, 019
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Roy E. Crummer
Under Negotiation: Price and terms of payment
20. Property APN: 4458-022-019 and 4458-021-003
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Wave Property Inc.
Under Negotiation: Price and terms of payment
21. Property APN: 4472-027-901 & 902; 4472-028-901 & 902; 4473-005-901 & 902; 4473-006-900
Property Negotiator: City Manager Lichtig or designee
Buyer Negotiator: State of California / Santa Monica Mountains Conservancy
Under Negotiation: Price and terms of payment
22. Property located at: 23801 and 23833 Stuart Ranch Road
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Yamaguchi Tokiye Trust
Under Negotiation: Price and terms of payment

Personnel matters pursuant to Government Code Section 54957:

23. Public Employee Performance Evaluation
Title: City Manager

City Attorney Hogin reported that the Council discussed several but not all items listed on the Closed Session agenda, took no reportable action and continued Item 23 to July 22, 2003, 5:00 p.m., City Hall Large Conference Room.

APPROVAL OF AGENDA

MOTION Councilmember House moved and Mayor Pro Tem Barovsky seconded a motion to approve the agenda. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on July 3, 2003.

ITEM 1 CEREMONIAL/PRESENTATIONS

Mayor Kearsley presented a certificate of recognition to Ron Rocco for his service as City Manager for the Day.

Ron Rocco thanked the Council for the opportunity to serve as City Manager for the Day.

ITEM 2A. PUBLIC COMMENTS

Jo Ruggles provided an update on the closed trails. She thanked the City for having staff meet with her to view the trail closures. She discussed an additional trail closure on Winding Way. She discussed a statement made at the Brown Act training held on Saturday, July 12, 2003 regarding the membership of Taxpayers for Livable Communities (TLC).

Ruby Fader discussed the dangerous situation at Heathercliff and Dume Drive and suggested a pedestrian crossing be installed.

Efrom Fader stated he was not a member of TLC and never has been, although he supports their right of litigation. He requested a written apology.

City Attorney Hogin discussed the Brown Act training sessions held on July 9 and July 12, 2003 for Boards and Commissions and staff. She stated she had indicated that she did not know the members of TLC but had mentioned names of those who had signed declarations on behalf of TLC including Ms. Ruggles and Mr. Fader. She stated she meant no insult to either Jo Ruggles or Efrom Fader.

B. COUNCIL COMMENTS

Mayor Pro Tem Barovsky clarified that TLC has refused to indicate its membership. City Attorney Hogin apologized to Mr. Fader and Ms. Ruggles.

Councilmember House discussed the Summer 2003 Senior Newsletter and upcoming events. City Manager Lichtig commended the senior center staff. She stated the senior center schedule was on the website, posted in the lobby and information included in both newspapers. Councilmember House congratulated staff.

Councilmember Stern stated he attended the senior computer class graduation and the Games for the Foundation for the Junior Blind at Camp Bloomfield.

Mayor Kearsley thanked Kate Kuhlkin, senior center computer instructor. He urged residents to donate used computers to the senior center.

Mayor Pro Tem Barovsky and Councilmember Jennings declined to comment.

Mayor Kearsley reminded seniors that exemption requests from Proposition S were due August 1, 2003.

ITEM 2A (continued)

Beverly Hammond, Point Dume Community Services District, requested the Council consider the District's request that it operate the community center (potentially built under the MBC development agreement) on Point Dume. She provided model joint powers agreement that could be used between the Point Dume Community Services District and the City of Malibu.

Councilmember Jennings asked whether the City could have a community center operated by the Point Dume Community Services District.

Mayor Pro Tem Barovsky indicated support for a joint powers agreement.

Councilmember House suggested the matter be reviewed at the Quarterly meeting in October 2003.

City Manager Lichtig stated it was feasible for staff to conduct a preliminary review. She reminded the Council that a community center was probably 5-6 years out.

Mayor Pro Tem Barovsky stated the operation of a community center on Point Dume might be an issue considered by the surrounding community during a development agreement election.

City Attorney Hogin stated the Council has the authority, either by joint powers or operation agreement, to delegate operation to Point Dume Services District. She stated the Council could make the commitment with the documentation done in the future.

Mayor Kearsley discussed the success of the Point Dume Community Services District. He stated he would support the Council indicating its position on management of a community center.

Mayor Pro Tem Barovsky suggested a discussion of the matter be placed on the July 22, 2003 special meeting agenda.

CONSENSUS

By consensus, the Council directed staff to place an item on the July 22, 2003 Special meeting agenda to allow full discussion on the possibility of the Point Dume Community Services District operating a future community center on Point Dume.

ITEM 3 CONSENT CALENDAR

MOTION Mayor Kearsley moved and Mayor Pro Tem Barovsky seconded a motion to approve the Consent Calendar. The motion carried unanimously.

The Consent Calendar consisted of the following items:

- A. Previously Discussed Items
- B. New Items

1. Waive further reading
Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.
2. Approve Warrants
Staff recommendation: 1) To allow and approve warrant demand numbers 22287 through 22312 and 22314 through 22437 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 287 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$417,584.68, including ADP payroll voucher numbers 4199088 – 4199102 in the amount of \$102,528.18; and 2) to allow and approve warrant demand numbers 22455 through 22438 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 288 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands making a total amount of \$87,485.12
3. Professional Services Agreement with S. Groner Associates, Inc. to Provide Professional Services for Projects Relating to the Proposition 13 Clean Beaches Initiative Grant
Staff recommendation: Authorize the City Manager to negotiate and execute a Professional Services Agreement with S. Groner Associates, Inc. in an amount not to exceed \$794,000, to provide professional consulting and administration services for certain projects relating to the implementation of the Proposition 13 Clean Beaches Initiative Grant.
4. Resolution in Opposition to Onychectomy in the City of Malibu
Staff recommendation: Adopt Resolution No. 03-34 opposing onychectomy (declawing) and flexor tendonectomy procedures in the City of Malibu.
5. 2003-2004 Developer Fee and Capital Improvement Plan for the Benefit of the Consolidated Fire Protection District of Los Angeles County
Staff recommendation: Adopt Resolution No. 03-36, updating the Developer Fee and Fire Station Plan.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

- A. Collection of Solid Waste Fee
Staff recommendation: Conduct the public hearing and adopt Resolution No. 03-30 imposing a fee on the collection of solid waste which will be used to support

the City's source reduction and recycling efforts and rescinding Resolution No. 93-169.

Administrative Services Director James presented the staff report.

Mayor Pro Tem Barovsky asked about the rate increases and new cans. Project Manager Collins explained the new Malibu Garbage District, which became effective on July 1, 2003. She stated Los Angeles County had conducted a questionnaire mailing prior to the change in service. She stated there were advertisements in the paper and two community meetings. She explained that automated containers were being used. She stated residents with concerns could contact GI Industries. Mayor Pro Tem Barovsky questioned the availability of an additional service of removing rubbish from storage sheds.

Councilmember Jennings asked the City's involvement in the Garbage District. He asked if the County would allow the City to adopt the proposed fee. Administrative Services Director James stated she had confirmed that the City could implement the fee.

In response to Councilmember Jennings, Project Manager Collins explained the Garbage District. She stated the City had cleared the fee with the Los Angeles County Counsel.

Councilmember House discussed the need for reflective tape on large rubbish containers on Pacific Coast Highway. Project Manager Collins discussed the City's efforts to obtain compliance from the haulers.

Councilmember Jennings suggested the amount of reflective tape be increased.

Mayor Pro Tem Barovsky asked if an additional \$7.40 would be charged to customers. Administrative Services Director James stated it would be an additional charge. She explained the fee would go towards the City's recycling efforts.

MOTION Councilmember Jennings moved and Councilmember Stern seconded a motion to adopt Resolution No. 03-30 imposing a fee on the collection of solid waste, which will be used to support the City's source reduction and recycling efforts, and rescinding Resolution No. 93-169. The motion carried unanimously.

- B. Zoning Text Amendment No. 01-005 - A request to amend Malibu Municipal Code Section 17.40.080.A.7 clarifying the requirements for the off-site treatment/disposal of wastewater on commercial sites.
Appeal No. 03-001 – An appeal of the Planning Commission's denial of Conditional Use Permit No. 01-005, Site Plan Review No. 02-035, and Negative Declaration No. 01-012, requesting a conditional use permit for the off-site

treatment of wastewater, for construction exceeding 500 square feet in a commercial zone, and to construct above 18'-0" but not to exceed 28'-0" in height for the construction of a new, 1,900 square foot wastewater treatment facility in the Community Commercial zone. Appellant: David Reznick; Applicant: Malibu Bay Company; Property Owner: Malibu Bay Company; Location: North east corner of Stuart Ranch Road and Civic Center Way
Staff recommendation: Continue Zoning Text Amendment No. 01-005 and the appeal of Conditional Use Permit No. 01-005, Site Plan Review No. 02-035 and Mitigated Negative Declaration No. 01-012 to the August 11, 2003 City Council meeting.

This item was continued upon approval of agenda.

ITEM 5 OLD BUSINESS

A. Amendment to Film Permit Procedures

Staff recommendation: Approve the changes to the City's film permit procedures as recommended by the Planning Commission.

Administrative Services Director James presented the staff report.

City Attorney Hogin explained that Mr. Dahlberg, Kissel Company, had been offered the chance to have a series filmed at Paradise Cove and requested a means to be excused from the 20-day maximum filming limit.

Councilmember Stern stated he was not interested in excepting out a certain area of the City.

In response to Mayor Kearsley, City Attorney Hogin explained that the item before the Council was an amendment to the film permit procedures.

MOTION Councilmember House moved and Mayor Pro Tem Barovsky seconded a motion to approve the changes to the City's film permit procedures as recommended by the Planning Commission and as amended by the City Attorney. The question was called and the motion carried unanimously.

ITEM 6 NEW BUSINESS

A. Consideration of Proposal from WildRescue

Staff recommendation: To avoid confusion and future conflicts, staff recommends that the City not contract with WildRescue for marine mammal rescue services.

Administrative Services Director James presented the staff report.

Rebecca Dmytrk, WildRescue, discussed services provided by WildRescue. She explained that no permit was required to rescue native wildlife. She discussed the permits she currently holds.

Beth Caskie, Executive Director of California Wildlife Center (CWC), discussed the protocol established by the National Marine Fisheries. She discussed the need for public education in assisting marine mammals. She discussed CWC's application with the City for a Prescott Grant. She welcomed volunteers at the Center.

Councilmember Stern stated Ms. Dmytrk had been sent the staff report. He stated he was not prepared to vote and would like to allow Ms. Dmytrk the opportunity to review the staff report and respond.

MOTION Councilmember Stern moved and Councilmember House seconded a motion to continue the item to July 28, 2003.

Mayor Pro Tem Barovsky requested Ms. Dmytrk discuss the necessary licensing and permits.

Councilmember Jennings expressed frustration with being caught in the middle of organizations' struggles. He indicated he would support continuing the matter. He requested information indicating that two agreements would not create an ongoing jurisdictional battle.

Mayor Pro Tem Barovsky asked if two contracts could be in place at the same time. City Manager Lichtig stated there was nothing preventing the City from having two agreements.

Mayor Kearsley stated he did not want to get caught in the "crossfire." He stated the intent was to help the animals. He encouraged the agencies to get together and work it out.

The question was called and the motion carried unanimously.

ITEM 7 COUNCIL ITEMS

- A. Consideration of Presentation of City Tile (Councilmember House)
Staff recommendation: Consider whether or not to present a City tile to Tom Fakehany.

Councilmember House presented the report. She recommended the City present a Malibu tile to Tom Fakehany.

Mayor Pro Tem Barovsky indicated respect for Mr. Fakehany's service and, although she did not agree with his opinions, would support presenting a tile.

MOTION Councilmember House moved and Mayor Pro Tem Barovsky seconded a motion to present a tile to Tom Fakehany. The motion carried unanimously.

Mr. Rocco thanked the Council for their community service.

ADJOURN At 7:42 p.m., Mayor Pro Tem Barovsky moved and Councilmember House seconded a motion to adjourn. The motion carried unanimously.

Approved and adopted by the City Council of the City of Malibu
on August 11, 2003.

KENNETH KEARSLEY, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)